

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

JOE COX and MANDY COX,)	
)	
Plaintiffs,)	
)	
v.)	Case No. CIV-20-104-SLP
)	
BOARD OF COUNTY)	
COMMISSIONERS OF THE COUNTY)	
OF KINGFISHER, et al.,)	
)	
Defendants.)	


ORDER

Before the Court is Defendants’ Partial Motion to Dismiss Plaintiffs’ Amended Complaint and Supporting Brief [Doc. No. 19]. Defendants move, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, for dismissal of Plaintiffs’ claim for abuse of process brought against Defendant Banther. In response, Plaintiffs state that they “do not oppose” dismissal of this claim but ask that the claim be dismissed without prejudice. Pls.’ Resp. [Doc. No. 21] at 1. Defendants did not file a reply and the time for doing so has expired. *See* LCvR 7.1(i).

Upon the Court’s own review, and further based on Plaintiffs’ concession, the Court finds Plaintiffs’ Fourth Cause of Action setting forth an abuse of process claim, *see* Am. Compl. [Doc. No. 15], ¶¶ 68-70, should be dismissed. Plaintiff has failed to allege facts sufficient to state a claim for abuse of process under applicable Oklahoma law. *See, e.g., Allen v. Town of Colcord, Okla.*, 874 F. Supp. 2d 1276, 1290-91 (N.D. Okla. 2012) (setting forth elements).

IT IS THEREFORE ORDERED that Defendants' Partial Motion to Dismiss Plaintiffs' Amended Complaint and Supporting Brief [Doc. No. 19] is GRANTED and Plaintiffs' abuse of process claim is dismissed without prejudice.

IT IS SO ORDERED this 2nd day of July, 2020.



SCOTT L. PALK
UNITED STATES DISTRICT JUDGE